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FMC Corporation

January 3, 2013

Mr. Jon Schweiss
U.S. EPA Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: Eastern Michaud Flats Superfund Site – Pocatello, Idaho
Independent Review – FMC Operable Unit
Remediation technologies for soil contaminated with elemental phosphorus

Dear Mr. Schweiss:

Thank you for your phone calls acknowledging receipt of the October 25, 2012 letter from FMC Corporation (FMC) that provided comments and questions regarding EPA's preliminary outline for organizing and administering an independent review panel to further examine potential treatment technologies for elemental phosphorus in soil at the FMC Operable Unit (OU) of the Eastern Michaud Flats Superfund Site. That EPA outline, entitled "EPA's Draft Proposal to Commission an Independent Review of Excavation/Treatment Technologies for the FMC Operable Unit (OU) of the Eastern Michaud Flat Superfund Site," was attached to a July 10, 2012 letter that the U.S. Environmental Protection Agency (EPA) sent to the Shoshone-Bannock Tribes (the Tribes). You stated in your phone calls that you had yet to review our letter with EPA management, but that after doing so you would contact us with responses to the points we have raised. As I indicated in our phone discussions, FMC would appreciate a written response from EPA. Our view is that a written response is necessary to assure that the considerable number of specific comments and questions we presented are fully addressed. This will facilitate development of an appropriate framework for empanelling the independent review panel and establishing the procedures under which it will operate.

As a follow up to FMC's October 25, 2012 letter, please find attached a copy of an article that appeared in the December 20, 2012 edition of the *Sho-Ban News* entitled "SBT renews working relationship with DOE." Please ensure that EPA's response to FMC's October 25, 2012 letter, specifically its response to item #6 (repeated below), takes into account and addresses the fact that the U.S. Department of Energy (DOE) has a twenty-year formal working relationship with the Tribes. EPA's preliminary proposal states that the Argonne National Laboratory, a DOE facility, would have a central role in establishing and administering the independent review panel. The longstanding DOE-Tribal working relationship combined with the Tribes' strong interest in the review panel's work raises significant concerns to whether DOE has the requisite independence to carry out that role. It is FMC's view that the DOE does not have the requisite independence to carry out that role. This is particularly highlighted by the fact that the



Idaho National Laboratory, which borders the Fort Hall Reservation, now incorporates the Argonne-West Laboratory.

6. Phase 1: Technology Review – Major Process Features – Selection of the Review Entity section. This section states that EPA will engage a “qualified expert entity.”

- a. The word “independent” is notably absent here, as well as any description of the specific area of expertise. EPA should add the qualification that the entity must be independent from EPA, the Tribes and FMC and their contractors.
- b. FMC understands that EPA has, at least preliminarily, identified Argonne National Laboratories as being considered for this role. Which Argonne National Laboratory location is being considered? Please state why the Argonne National Laboratories would be considered “independent.” What is their expertise in evaluating remedial technologies, in particular with respect to elemental phosphorus-contaminated soils and similar soil conditions? What process did EPA follow in selecting them?

Thank you for your consideration. We look forward to your responses.

Very truly yours,



Robert T. Forbes
Director, EHS Remediation/Governance

cc: Dennis McLerran
Kevin Rochlin

...huddled around
Davis, and me and the
other hunter huddled
next to Jones to transfer
body heat until the am-
bulance could arrive,"
Haskett continued.

It would take the
ambulance another 30

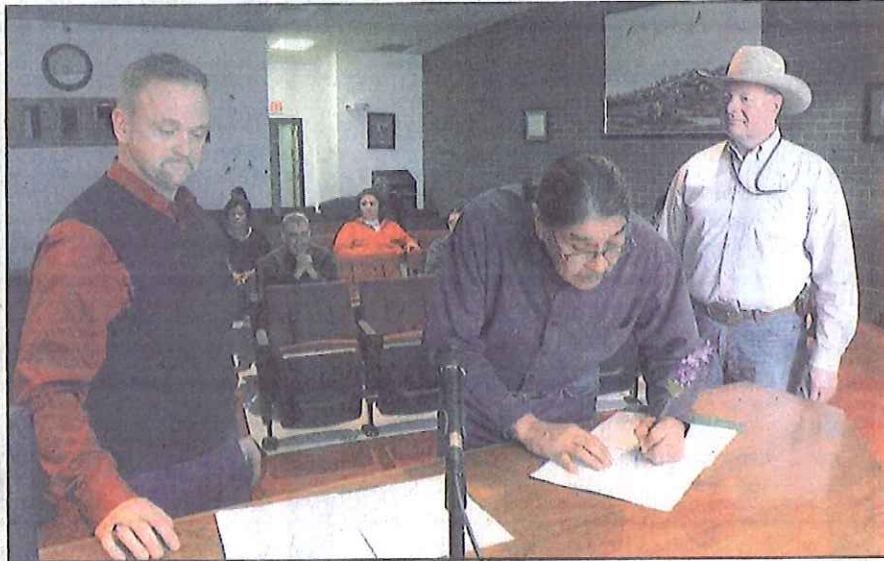
...was taken to Lower
County Hospital.

Jones and Davis
were able to make
a full recovery, and
Officer

Haskett
visited Jones while
he was at Portneuf.
"Of course he didn't

...Haskett is a
hero; and because of
his quick thinking, and
experience, the families
of Jones and Davis will
be able to spend many
more years with their
family member and
friends.

SBT renews working relationship with DOE



FHBC Chairman Nathan Small signs the AIP as Rick Provencher (left), manager of the DOE Idaho Department Operations Office and Bob Pence, American Indian Program Manager for the Department of Energy look on. (Roselynn Wahtomy photo)

By ROSELYNN WAHTOMY
Sho-Ban News

FORT HALL — Delegates from the Department of Energy met with the Fort Hall Business Council on Tuesday, December 18 to renew an Agreement in Principle (AIP) with the Shoshone-Bannock Tribes.

Bob Pence, American Indian Program Manager for the Department of Energy said, "We appreciate the opportunity to stand with you today and sign an new agreement in principle renewing our commitment together to work on things of mutual interest that involve the Tribes and the Department of Energy at the Idaho National Laboratory."

FHBC Chairman Nathan Small and Rick Provencher, manager of the DOE Idaho Department Operations Office, signed copies of the formal agreement.

DOE has had a formal relationship with the Shoshone-Bannock Tribes since 1992, which included a working agreement at that time

and a funding agreement, explained Pence.

"We've evolved from then to now with a series of successive agreements and the latest of which, is the Agreement in Principle, which is a five year agreement signed today."

The agreement in principle captures the areas of common interest between the Tribes and DOE.

Pence continued, "We recognize, as a department, the importance of working with effected Indian Tribes. We also recognize their connection to the Idaho National Laboratory where we do our work — the ancestral ties to the land. Through the AIP we recognize the importance and sovereignty of the 1868 Fort Bridger Treaty and continue to honor that as a supreme law of the land."

Pence expressed they were excited to renew their commitment in working with the Shoshone-Bannock Tribes as they are a very important part of their work process.